

Hunters Point Laura Duchnak Talking Points, 2-1-18

- As you have probably seen from the extensive press coverage of your community meeting, this issue is highly visible and controversial. While press coverage seemed on point with regards to overall poor data and need for new sampling data, EPA remains concerned that Navy message not reflective of level of falsification determined by agencies official review comments, which have been out for a month.
- Are you aware that the agency team found concerns in 97% of Parcel G survey units vs. the Navy's 44%? The original ROD required excavating and scanning 100% of survey units. That gives the most certainty, regains public trust, and reduces litigation risk. Not including EPA/State falsification numbers in the Final Data Evaluation Report or this week's Fact Sheet is disingenuous. If anyone from the press/public asks our team what we think of the Navy's report, we have no choice but to state that we found significantly greater signs of falsification. We should be on the same page on this. EPA's analysis is comprehensive and legally defensible.
- Focusing on the path forward – the re-sampling effort for Parcel G which is first – our senior managers have met repeatedly and cannot come to agreement. Navy continues to propose “low percentages” of re-work (around 2% compared to the agencies' roughly 33%). (see more details on proposals and counterproposals on next page)
- We have already delayed sampling by over a year to wait for the results of the data evaluation, which showed the problems are worse than we expected. This is not a time to delay more. We should err on the side of sampling more up front to gain more technical certainty, restore public trust, and reduce litigation risk. This is not a time to skimp on short term sampling costs when the costs of uncertainty are so great.
- I have talked with Mohsen and Anthony Chu at CDPH. If you present a written workplan based on your 2% proposal, we will have no choice but to write a letter publicly disapproving your plan. That will be a big waste of everyone's time and contractor dollars.
- Last night Lawrence suggested that the Navy would be willing to move to a higher percent, only if the Navy had more certainty in how the results would be evaluated, esp. wrt background. Yet, last night the Navy publicly announced, to our surprise, that it would submit the sampling plan on Feb 9 and make it immediately available to the public for a 30-day comment period. While we are pleased that the Navy will engage the public in the process, is it wise to release the plan when we are so far apart?
- We'd like to move past these conflicts. Please consider whether it's in the best interest of this process to release the sampling plan when the Navy percentages are still so far off from the agencies. I want to offer you the opportunity to have a face-to-face meeting at our level, with our state counterparts to try to settle on the path forward. We want to cut to the bottom line right away. We should all want a comprehensive sampling strategy and real data as soon as possible, so we can move forth with protective decisions parcel by parcel.

Additional info:

- The current state of play wrt sampling plan proposals/counter-proposals:
 - On Nov.1, Navy team presented a proposal with 0% excavation and scanning.
 - On Nov.7, to keep things moving, EPA/State team made an extremely generous offer that you could start with 25% of trench units. If results were clean, then we would all have real data to make a defensible technical and legal case for reduced effort for the remainder.
 - On December 19, Navy team presented a plan excavating 2% of trench units. That is nowhere close. (Note: the Navy will say it is closer to 7-8%, but that calculation includes the footprint of building areas they proposed to sample, which we address separately from our 25% calculation).
 - Nevertheless, we have continued to look at the most defensible, statistically-based approach and EPA/State has moved closer to proposing excavating around 33% of trench units, which John and Angeles explained to Lawrence last night.
 - As stated above, Lawrence said he will likely move higher, but we have no idea how high. Nevertheless, he will propose something in the publicly released plan on Feb 9 without us knowing beforehand. Doesn't seem wise.